

684.2213 Div.I



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
HIROYUKI INOUE, et al.) : Examiner: C. Hallacher
Application No.: 08/796,519) : Group Art Unit: 2853
Filed: February 7, 1997) :
For: INK CONTAINER FOR INK) :
JET PRINTING, HOLDER) :
FOR THE CONTAINER,) :
CARRIAGE FOR THE) :
HOLDER AND INK JET) :
PRINTER) : October 16, 2000

#18/Election
10/30/00
V. Vannell

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement dated August 14, 2000 (Paper No. 16), the period for response to which having been extended to Monday, October 16, 2000 by the accompanying Petition For Extension Of Time, Applicants provisionally elect the Group I claims, namely Claims 1, 43 to 101, 109 to 133, 139 to 146 and 149. The election is made with traverse.

Traversal is on the grounds that it is impossible for the Examiner to establish burden. Specifically, MPEP § 808 et. seq. specify that a proper requirement for restriction include an explanation as to how it would be a

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on Oct 16, 2000
(Date of Deposit)

Michael K. O'Neill
Name of Attorney for Applicant
Michael K. O'Neill Oct 16, 2000
Signature Date of Signature

serious burden if restriction is not required. MPEP 811 infers that it nearly impossible to establish burden if a restriction requirement is made after the first action on the merits: "Before making a restriction requirement after the first action on the merits, the Examiner will consider whether there will be a serious burden if restriction is not required."

Here, the Examiner has previously examined all claims on the merits, without entering a restriction requirement, in an Office Action dated July 13, 1998 (Paper No. 6). In that Office Action, Claims 1 to 42 were considered by the Examiner on the merits, and at that time the Examiner did not deem a restriction requirement to be appropriate. In responding to the Office Action, Applicants that Claims 2 to 42 had actually been cancelled, in a filing dated February 7, 1997. Accordingly, those claims 2 through 42 were rewritten as new Claims 109 to 149.

Accordingly, since the Examiner has already considered the subject matter of Claims 109 to 149, a serious burden as to those claims cannot be established, and the restriction requirement should be withdrawn with respect to Claims 109 to 149.

Moreover, it is not seen that examination of Claims 102 to 108 would cause a serious burden, that is, a burden

beyond those of ordinary examination. Accordinlgy,
withdrawal of the requirement for restriction as to Claims
102 to 108 is also respectfully requested.

Applicants' undersigned attorney may be reached in
our Costa Mesa, California office at (714) 540-8700. All
correspondence should continue to be directed to our below-
listed address.

Respectfully submitted,


Attorney for Applicants

Registration No. 32622

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-2200
Facsimile: (212) 218-2200